

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

v.

Case No.: 21-cr-00074-jdp

MATTHEW D. ENGELHARDT,

Defendant.

GOVERNMENT’S SENTENCING MEMORANDUM

I. Introduction

Off and on for more than two years, the defendant engaged in an on-line sexual relationship with “Sarah,” a person he thought was a 14-year-old girl, but who was really an undercover officer. On June 29, 2021, the defendant and “Sarah” made arrangements to meet at a store in Janesville where, the defendant proposed, they would have sex in the bathroom. The next day, he was taken into custody at the store and agents found a condom in his pocket.

The defendant’s advisory guideline range for his count of conviction is 51 to 63 months. However, had he been convicted of Count 1 of the indictment, his advisory guideline range would have been 78 to 97 months¹ and his mandatory minimum would

¹ The government recognizes that this Court generally declines to increase the guidelines by two levels for use of a computer in child exploitation cases. The government believes that the enhancement should apply in this case because, as described below, the defendant used his computer to seek out and communicate one-on-one with the fictitious minor, and didn’t simply use his computer to search the internet and store child pornography.

have been 10 years in custody. The government respectfully requests a sentence of 78 months.²

II. Sentencing Argument

Sentencing in Federal Courts is guided by 18 U.S.C. § 3553. Section 3553 directs this Court to focus on who the defendant is and what the defendant did (Section 3553(a) (1)), and to address various societal goals in sentencing (Section 3553 (a) (2-7)).

Notwithstanding the advisory guideline range for either charge, a sentence of 78 months is warranted in light of these factors.

A. Nature and Circumstances of the Offense

18 U.S.C. § 3553(a) (1) directs the Court to consider the nature and circumstances of the offense – what did the defendant do? The defendant’s actions support a guideline sentence.

As seen in the below chats, the defendant sought the UC’s persona out and despite, or more likely because of the fact that “she” told him that “she” was 14, almost immediately began pressuring “her” to engage in a sexual relationship.³

² Should the Court decline to increase the guidelines for use of a computer, the defendant’s total offense level for the dismissed count would be 25 and his guideline range would be 63-78 months, still encompassing the government’s requested sentence.

³ The government will provide the Court with all the chats from the date the two met to the date the defendant was arrested if the Court wishes to review them.

Sender	Date & Time	Message
UC	04/18/2019 9:07 AM	UC connects to messenger
Matthew Engelhardt	04/18/2019 9:07 AM	Hi Sarah
Matthew Engelhardt	04/21/2019 9:37 AM	Hi please talk to me
Matthew Engelhardt	04/24/2019 10:36 AM	I would like to talk with u so please message me back
Matthew Engelhardt	04/24/2019 11:46 AM	Please talk to me
UC	04/24/2019 1:20 PM	Hi
Matthew Engelhardt	04/24/2019 1:20 PM	How r u Sarah
Matthew Engelhardt	04/24/2019 1:22 PM	U single
UC	04/24/2019 1:25 PM	Yes. u?
Matthew Engelhardt	04/24/2019 1:25 PM	Yes want me to be your boyfriend
UC	04/24/2019 1:26 PM	Where do you live?
Matthew Engelhardt	04/24/2019 1:26 PM	In New Mexico and u
UC	04/24/2019 1:26 PM	I live in Wisconsin. NM is too far away
Matthew Engelhardt	04/24/2019 1:28 PM	I can come see i
Matthew Engelhardt	04/24/2019 1:28 PM	U
UC	04/24/2019 1:28 PM	You would come all the way here to see me?
Matthew Engelhardt	04/24/2019 1:29 PM	Yes and to be with you
Matthew Engelhardt	04/24/2019 1:29 PM	So how about it
UC	04/24/2019 1:29 PM	Im only 14 tho...
UC	04/24/2019 1:30 PM	that ok?
Matthew Engelhardt	04/24/2019 1:30 PM	Yes that is fine
Matthew Engelhardt	04/24/2019 1:31 PM	May I see your picture

UC	04/24/2019 1:31 PM	you first
Matthew Engelhardt	04/24/2019 1:31 PM	Your turn
Matthew Engelhardt	04/24/2019 1:31 PM	<i>PICTURE</i>
Matthew Engelhardt	04/24/2019 1:32 PM	What do u think
UC	04/24/2019 1:33 PM	You are pretty cute!
Matthew Engelhardt	04/24/2019 1:33 PM	Your turn
UC	04/24/2019 1:33 PM	<i>PICTURE</i>
Matthew Engelhardt	04/24/2019 1:33 PM	Your cute too
UC	04/24/2019 1:34 PM	Thanks!
Matthew Engelhardt	04/24/2019 1:34 PM	Can I ask u something and your welcome
UC	04/24/2019 1:34 PM	Sure
Matthew Engelhardt	04/24/2019 1:34 PM	Have u had sex yet
UC	04/24/2019 1:34 PM	Yes
Matthew Engelhardt	04/24/2019 1:34 PM	How was it
UC	04/24/2019 1:35 PM	idk...why do u ask?
Matthew Engelhardt	04/24/2019 1:35 PM	Would u like to with me
UC	04/24/2019 1:35 PM	Maybe. You arent a creeper or anything are you?
Matthew Engelhardt	04/24/2019 1:37 PM	No I'm not
Matthew Engelhardt	04/24/2019 1:37 PM	I promise
UC	04/24/2019 1:38 PM	Seems like something a creeper would say...
Matthew Engelhardt	04/24/2019 1:38 PM	I'm not a creeper just telling the truth
UC	04/24/2019 1:38 PM	I was joking
Matthew Engelhardt	04/24/2019 1:39 PM	OK and if u did have sex with me want a condom used

UC	04/24/2019 1:39 PM	Well yeah, of course
UC	04/24/2019 1:39 PM	If that ever happens...
Matthew Engelhardt	04/24/2019 1:39 PM	It will
UC	04/24/2019 1:39 PM	What will?
Matthew Engelhardt	04/24/2019 1:39 PM	Us having sex
UC	04/24/2019 1:40 PM	What makes you so sure?
Matthew Engelhardt	04/24/2019 1:41 PM	I just know cause I love u
UC	04/24/2019 1:42 PM	You love me? You just started talking to me...
Matthew Engelhardt	04/24/2019 1:42 PM	I mean liking u
Matthew Engelhardt	04/24/2019 1:46 PM	Can I ask u something
UC	04/24/2019 1:46 PM	sure
Matthew Engelhardt	04/24/2019 1:46 PM	Do u want kids from me one day
UC	04/24/2019 1:47 PM	idk... im only 14 so that wold be in along time...lol
Matthew Engelhardt	04/24/2019 1:47 PM	How about if I stayed and helped I if u did get pregnant
Matthew Engelhardt	04/24/2019 1:49 PM	I meant u
UC	04/24/2019 1:54 PM	Idk if my mom would allow that
Matthew Engelhardt	04/24/2019 1:54 PM	She won't know if we don't tell her

The defendant originally told "Sarah" he was 17. Only when she confronted him with the fact that his profile said he was born in 1989 did he tell her he was adult.

When Sarah tried to end the conversation telling the defendant that he creeped her out, he still said he wanted to meet her.

Matthew Engelhardt	04/24/2019 2:10 PM	So can we do what I asked about of the getting u pregnant or wait till you're done with school
--------------------	-----------------------	--

UC	04/24/2019 2:10 PM	Idk...im kinda creeped out...message me another time
Matthew Engelhardt	04/24/2019 2:11 PM	OK I'm sorry can please continue talking
Matthew Engelhardt	04/24/2019 2:12 PM	I won't ask about the sex or that but on how we can meet
Matthew Engelhardt	04/24/2019 2:12 PM	When did u want to meet
UC	04/24/2019 2:13 PM	How would you get to WI
Matthew Engelhardt	04/24/2019 2:14 PM	Bus
UC	04/24/2019 2:14 PM	You are saying all the things the other guy sent to me. How do I know you arent him?
Matthew Engelhardt	04/24/2019 2:15 PM	I'm not him and do u know what his name was
UC	04/24/2019 2:17 PM	I know his name.
UC	04/24/2019 2:17 PM	why do you want to come see me so bad?
Matthew Engelhardt	04/24/2019 2:18 PM	I really want to see u in person and hangout with you
UC	04/24/2019 2:18 PM	Why? you dont know me
Matthew Engelhardt	04/24/2019 2:18 PM	I want to

The conversations continued over the course of two years. Even when "Sarah" didn't respond for months at a time, the defendant continued to reach out to her.

Matthew Engelhardt	09/03/2020 12:35 PM	And I love u as well and may I get a pic plz since I sent u one
Matthew Engelhardt	09/03/2020 12:42 PM	U busy babe
Matthew Engelhardt	09/04/2020 8:45 AM	Hi
Matthew Engelhardt	09/05/2020 3:02 PM	Hi baby
Matthew Engelhardt	09/06/2020 6:42 PM	Hi baby how are u
Matthew Engelhardt	09/11/2020 6:59 AM	Hey baby
Matthew Engelhardt	09/12/2020 11:57 AM	Hi

Matthew Engelhardt	09/14/2020 2:55 PM	Hi baby
Matthew Engelhardt	09/14/2020 2:58 PM	How r u
Matthew Engelhardt	09/14/2020 3:03 PM	Talk to me plz
Matthew Engelhardt	09/25/2020 12:59 PM	Hi sweetie
Matthew Engelhardt	09/29/2020 2:29 PM	Hi
Matthew Engelhardt	09/30/2020 8:33 AM	Hi
Matthew Engelhardt	10/05/2020 10:17 AM	Hey baby
Matthew Engelhardt	10/19/2020 9:50 AM	Hi
Matthew Engelhardt	11/26/2020 7:38 PM	How r u baby
Matthew Engelhardt	11/26/2020 7:38 PM	Happy Thanksgiving
Matthew Engelhardt	12/23/2020 11:44 AM	Hello
Matthew Engelhardt	02/22/2021 11:41 AM	Hello
Matthew Engelhardt	02/22/2021 12:45 PM	Talk to me plz
UC	02/22/2021 12:45 PM	Hi
UC	02/22/2021 12:45 PM	Whats up?
Matthew Engelhardt	02/22/2021 12:45 PM	How have u been
UC	02/22/2021 12:46 PM	Good. U?
UC	02/22/2021 12:46 PM	Hows New Mexico?
Matthew Engelhardt	02/22/2021 12:47 PM	Fine do u remember me
Matthew Engelhardt	02/22/2021 12:48 PM	Its Matt remember me
UC	02/22/2021 12:51 PM	Yeah I remembered...you loved me and were going to come stay at my house and then you hurt your leg and stopped talking to me
Matthew Engelhardt	02/22/2021 12:52 PM	My leg is fine now do u still want me to come stay

UC	02/22/2021 12:52 PM	SHRUG EMOJI
Matthew Engelhardt	02/22/2021 12:52 PM	I can if u want me too
UC	02/22/2021 12:53 PM	You can do whatever you want. You forgot my birthday and didnt seem to care that much about me
Matthew Engelhardt	02/22/2021 12:53 PM	I'm sorry I forgot your birthday ok plz forgive me and I still love u

He also reached out to “Sarah” again when he made plans to come to Wisconsin, despite not having contact with “her” in the two months prior. While he was coming with his family to see a relative in Janesville, he still used the opportunity to reach back out to the UC and reaffirm his interest in meeting and sexually assaulting “her.”

Matthew Engelhardt	02/22/2021 3:22 PM	Ok love u
Matthew Engelhardt	02/23/2021 7:34 PM	Hi
Matthew Engelhardt	03/03/2021 2:13 PM	Hello babe
Matthew Engelhardt	03/09/2021 2:16 PM	Hi
Matthew Engelhardt	04/12/2021 8:39 AM	Hi
Matthew Engelhardt	04/29/2021 11:58 AM	Hi baby
Matthew Engelhardt	04/30/2021 10:54 AM	Hello
UC	04/30/2021 10:54 AM	Hi
Matthew Engelhardt	04/30/2021 10:55 AM	How have u been babe
UC	04/30/2021 10:56 AM	Good, u?
Matthew Engelhardt	04/30/2021 10:57 AM	Good have missed u
Matthew Engelhardt	04/30/2021 10:57 AM	I have some news for u
UC	04/30/2021 10:58 AM	Whats that?

Matthew Engelhardt	04/30/2021 10:58 AM	Ill be coming to Wisconsin to visit my sister at the end of June
UC	04/30/2021 10:58 AM	Really?
UC	04/30/2021 10:58 AM	Are you actually coming this time?
UC	04/30/2021 11:00 AM	☹
Matthew Engelhardt	04/30/2021 11:00 AM	Yes
Matthew Engelhardt	05/14/2021 7:25 AM	Hi
Matthew Engelhardt	05/15/2021 10:17 AM	Hello
Matthew Engelhardt	05/21/2021 9:18 PM	Hi
Matthew Engelhardt	05/22/2021 7:50 PM	Hi
Matthew Engelhardt	06/08/2021 7:48 AM	Hi
Matthew Engelhardt	06/08/2021 11:51 AM	Hi baby
Matthew Engelhardt	06/08/2021 2:12 PM	Hello
UC	06/08/2021 3:29 PM	Hi
Matthew Engelhardt	06/08/2021 3:30 PM	How are u baby
UC	06/08/2021 3:30 PM	Good. U?
Matthew Engelhardt	06/08/2021 3:31 PM	Good ill be in Wisconsin for a week if u want to sed me
UC	06/08/2021 3:31 PM	You said you were maybe coming here. Are you still planning at the end of the month?
Matthew Engelhardt	06/08/2021 3:32 PM	Yes for a week
Matthew Engelhardt	06/08/2021 3:32 PM	A week

Matthew Engelhardt	06/08/2021 3:37 PM	I could go to Madison to go shopping
Matthew Engelhardt	06/08/2021 3:38 PM	We could meet somewhere there
Matthew Engelhardt	06/08/2021 3:41 PM	U there

Matthew Engelhardt	06/08/2021 3:45 PM	Babe
Matthew Engelhardt	06/08/2021 3:46 PM	Please say something and i want to ask u something
Matthew Engelhardt	06/08/2021 3:49 PM	U there
Matthew Engelhardt	06/08/2021 3:51 PM	Can we still have sex when we see each other
Matthew Engelhardt	06/08/2021 3:59 PM	Hello
Matthew Engelhardt	06/08/2021 4:46 PM	Please say something
Matthew Engelhardt	06/08/2021 5:12 PM	U there
Matthew Engelhardt	06/08/2021 7:57 PM	U there babe
Matthew Engelhardt	06/09/2021 8:05 AM	Hi
Matthew Engelhardt	06/15/2021 8:13 AM	Hi
UC	06/23/2021 10:51 AM	Hi!
Matthew Engelhardt	06/23/2021 10:52 AM	Guess what babe
Matthew Engelhardt	06/23/2021 10:52 AM	U there
Matthew Engelhardt	06/23/2021 10:54 AM	Hello
Matthew Engelhardt	06/23/2021 11:00 AM	Talk to me plz
UC	06/23/2021 11:05 AM	What? I am here!
Matthew Engelhardt	06/23/2021 11:19 AM	Im on my way there to come see you babe

Once in Wisconsin, the defendant came up with the idea to meet at Target and have sex in the bathroom. He told officers that he brought condoms with him from New Mexico in case he met "Sarah."

UC	06/29/2021 11:46 AM	If I come tomorrow morning with my mom, can I see you?
----	------------------------	--

Matthew Engelhardt	06/29/2021 11:46 AM	Yes
UC	06/29/2021 11:47 AM	Ok! Heart Face Emoji
Matthew Engelhardt	06/29/2021 11:47 AM	What time will u come in the morning
UC	06/29/2021 11:48 AM	I think my mom wanted to get there around 9am
Matthew Engelhardt	06/29/2021 11:48 AM	Ok well we leave by noon
UC	06/29/2021 11:49 AM	Ok. I can see you for a few hours then!
Matthew Engelhardt	06/29/2021 11:49 AM	And do what for a few hours
UC	06/29/2021 11:50 AM	👤 hang out, talk, whatever. What do you want to do?
Matthew Engelhardt	06/29/2021 11:50 AM	Talk a walk and go walk around target and maybe sex in the bathroom
UC	06/29/2021 11:51 AM	Ok! Would you wear a condom?
Matthew Engelhardt	06/29/2021 11:52 AM	Yes
UC	06/29/2021 11:52 AM	Do you have some with you?
Matthew Engelhardt	06/29/2021 11:52 AM	Yes
UC	06/29/2021 11:53 AM	Ok! Bring one, or else my mom would kill me if I snuck away from her at 15 and got pregnant in a Target bathroom... 🤔

He later sent “Sarah” pictures of the Target bathroom and one of his penis, telling her to “be prepared.”

The defendant’s conduct was extremely serious. While the victim in this case was fictitious, the defendant did not know that when he expressed his desire to sexually assault her. He was undeterred when the agent ended contact numerous times and repeatedly reached out to “her” to reestablish the relationship. Once in Wisconsin, his conduct proved he was more than just talk when he arranged to meet the UC to have sex and showed up with a condom.

B. History and Characteristics of the Defendant

This is not the first time the defendant has traveled to meet an underage girl. In 2017, he took a bus from New Mexico to Arizona to meet J.N. (R. 29, ¶ 22). While that trip appears to have been part of a plan by J.N. to murder her father, it does not negate the defendant's actions or intent. Additionally, it did not stop him from traveling to meet another "child." Moreover, when asked why he continued to communicate with the undercover account knowing "she" was under 18, he told officers that he was attracted to girls under 18. (Id., ¶ 23).

While the defendant was diagnosed with an unspecified neurodevelopmental disorder and borderline intellectual functioning, his education and employment do not seem to demonstrate those deficiencies. The defendant graduated high school. (R. 29, ¶67). He reported no issues reading, writing, or understanding his classwork. (Id.). He did not take special education classes and still earned a GPA of 2.465. (Id.). He went on to college where he took 14 credits and earned a GPA of 2.29 his first semester. Admittedly, it went downhill from there but even in his final semester, he earned a B and two Cs. (Id.). This does not seem to be indicative of borderline intellectual functioning. Additionally, he was able to get and maintain employment.

Maybe something happened to him cognitively since college. Maybe the testing he underwent was wrong. Whatever the case, the defendant's actions show that he is still a danger to the community.

C. The Need for the Sentence to Reflect the Seriousness of the Offense, to Promote Respect for the Law, and to Provide Just Punishment

Section 3553 directs the Court to “impose a sentence sufficient, but not greater than necessary, to comply with the purposes of sentencing set forth in the subsection.” Included in those factors are the need for the sentence imposed to reflect the seriousness of the offense, to provide just punishment for the offense, and to protect the public from further crimes of the defendant.

The seriousness of this offense is clear. The defendant traveled from New Mexico to Wisconsin to see family but still intending to sexually assault a teenager. Had the agent been a real child, it’s likely an assault would have occurred, being that the defendant showed up to the meet location with condoms.

D. The Need to Afford Adequate Deterrence to Criminal Conduct and Protect the Public from Further Crimes of the Defendant

The sentence in this case should send a loud message to other offenders that serious consequences will result for such callous disregard of minor victims. The defendant’s actions in this case, along with his admitted interest in underage girls, show that despite any limitations he may have, he has an undeterrable interest in minors and thus, likely poses a future danger to minors in the future. The public deserves to be protected from him for a lengthy period of time.

III. CONCLUSION

For the reasons above, the government respectfully believes that a sentence of 78 months, followed by 20 years of supervised release, is warranted in this case.

Dated: March 4, 2022

Respectfully submitted,

TIMOTHY M. O'SHEA
United States Attorney

By: /s/
ELIZABETH ALTMAN
Assistant United States Attorney